Supreme Court, U.S.
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IN THE

SUPREME COURT of the UNITED STATES

October Term, 1994

STANLEY SOLOMON,

Petitioner,

v.

UNITED STATES OF AMERICA and
EDGAR AUERSWALD

Respondents

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Stanley Solomon,
Petitioner Pro Se,

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Questions Presented for Review

1. Whether lying by the Court of Appeals, about the existence of Auerswald, as the sole reason for denying petitioner a preliminary injunction is a legitimate exercise of judicial power.

2. Whether any imagined "good purpose" ever justifies depriving petitioner of his constitutional rights and also thereby depriving petitioner of damages to which he is entitled, having been put through the tortures of the damned by Auerswald, an employee of the federal government and also subjecting petitioner to risk of his life at the hands of the lying, murdering psychopath Auerswald who has committed mass murder of probably thousands of people.

3. Whether any "good purpose" is served by depriving petitioner of the relief to which he is entitled and thereby condemning petitioner to many more years of mental agony, fear and uncertainty and allowing Auerswald to continue to treat petitioner as his property.

4. Whether the peculiar assumption that allowing Auerswald to continue his public lying on television confers some benefit on the Jews in the United States and whether this justifies destroying petitioner"s life further.

5. Whether this country, which is supposed to be a democracy, is ever entitled to take away the constitutional rights of a citizen such as petitioner who has never committed a crime and is not crazy except in the warped mind of pathologic liar Auerswald.

6. Whether it is possible for the Court Of Appeals to con petitioner into believing that Auerswald doesn't exist, after

petitioner was poisoned by Auerswald every day for 17 years(1970-1987).

7. Whether the fact that everyone in the United States knows who Auerswald is. makes the lie that he doesn't exist by the Court Of Appeals more palatable.

8. Whether torts by federal officers are prohibited by the Bivens doctrine.

9. Whether the statement by the District Court Judge (Nickerson) that plaintiff would be entitled to an injunction under the Bivens doctrine except for the fact that Auerswald doesn't exist is true.

10. Whether defendant's failure to respond to the Request for Admissions under Rule 36 means that all the Requests for Admission in that document are deemed admitted for this action and it is therefore unnecessary for petitioner to produce further evidence that Auerswald exists and that he is a federal employee since they are admitted under this document. Also many of the acts committed by Auerswald are likewise admitted.

11. Whether the Court of Appeals failure to require the FDA to test what Auerswald was actually adding to the food supply in 1982 when petitioner claimed it was papain and Auerswald said it was niacin, by not calling it an abuse of discretion not to test the food supply shows a pattern of very poor judgment by the Court of Appeals where Auerswald is concerned, which continues to this day.

12. Whether the present case doesn't present a very close analogy to the case mentioned in No.11 since in that case an injunction was requested to stop Auerswald from continuing to add things to the food supply and the failure of the Court

of Appeals to issue the injunction allowed Auerswald to kill, hundreds more people until he stopped contaminating the food supply in 1987. Similarly, the failure of the Court of Appeals to issue an injunction in the present case will encourage Auerswald to murder me since he sees no action was taken against him even though he murdered thousands of people.

13. Whether Auerswald's attempting to murder me every day for 17 years shows he is obsessed with the idea of killing me.

14. Whether if the Supreme Court fails to grant certiorari under Rule 10(.1)(a) this will set a bad precedent for a democracy that a citizen's rights can be taken away by the courts if it serves some supposed worthwhile purpose. (although I deny there is any worthwhile purpose in this case).

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TABLE OF AUTHORITIES

5 U.S.C. para 702

5 U.S.C. para 703

Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999 (1971)

The opinion and judgment of the United States Court of Appeals for the Second Circuit is reproduced as Appendix A. It affirms completely a judgment of the United States District Court for the Eastern District of New York, based on a memorandum and order reproduced as Appendix D.

JURISDICTION

The judgment of the United States Court of Appeals for the Second Circuit was entered on April 13,1994. On April 22,1994, Petitioner timely filed a Petition for Rehearing and Suggestion for Rehearing En Banc. The court below entered an order (reproduced as Appendix B) denying the petition on June 14, 1994. This petition is filed within ninety days of that date. The jurisdiction of this Court to review the judgment on petition for certiorari rests upon Section 1254(1) of the Judicial Code (28 U.S.C. para 1254(1).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The relevant constitutional provisions are Article IV, Sec. 2; Amendments IV, V, and XIV Sec.1. Also relevant are the Federal Tort Claims Act, (28 U.S.C. para 2671 et seq.) and 42 U.S.C. para 1985. The pertinent text of these is reproduced as Appendix F.

STATEMENT OF THE CASE

Petitioner requests that the Court to review the decision by the Court of Appeals for the Second Circuit to affirm the decision of the District Court for the Eastern District of New York denying the petitioner an injunction and damages against Edgar Auerswald, an employee of the federal government, and dismissing the complaint on the grounds

that there is no evidence that Auerswald exists. This is such a blatant lie that it takes one's breath away especially since everyone in the United States knows who Auerswald is and of his interference in my life through his television appearances. Everyone who reads the decision knows it is a lie. Not only that but failure of the defendant to respond to a Request For Admissions under Rule 36 made Auerswald's position as a government employee and many of the allegations of the complaint established for this case as true as a matter of law not requiring any further evidentiary proof.

This action was originally filed in the United States District Court for the Eastern District of New York. The complaint requested an injunction against Auerswald and the federal government and damages against Auerswald, who is an employee of the federal government who was granted life and death power over the petitioner by the federal government. Auerswald used this power to trick the federal government into contaminating the food and water supply of the entire tri-state area by adding a substance called papain, to the food and drink on supermarket shelves which Auerswald supplied to the food manufacturers. Auerswald accomplished this by telling the federal government that I was schizophrenic and he was merely adding niacin to the food supply which was reported in one paper(!) to help schizophrenics by a Canadian physician in 1968.Actually, Auerswald was adding papain(from papaya), a proteolytic enzyme to which a substantial portion of the population is allergic(1-2%). The reason he did this was because he discovered that I was allergic to papain and being a psychopath, he decided he would kill me by an allergic reaction, since I had become an inconvenience to him and he was afraid I would expose him for the lying, sadistic psychopath that he was.

Needless to say, I was not schizophrenic. It was just one more lie by Auerswald; lying is what Auerswald does best. Being a psychopath it did not matter to Auerswald that

other people, more allergic than I, (mostly asthmatics) would also die if they were allergic to papain. He continued this contamination of the food supply from 1970 to 1987 (when I found the antidote). The proof that it was all a scheme, to kill me is that in 1973 the American Psychiatric Association(the organization which sets the standards for psychiatry in America) published a paper stating that niacin was worthless in schizophrenia or any other mental illness based on experimental studies, none of which showed any effect at all of niacin, except for the original paper done in 1968.Thus the original paper was either in error or fraudulent. All texts of psychiatry after 1973 said that niacin was worthless. However, Auerswald continued contaminating the food supply for 14 more years thus proving he was never adding niacin in the first place or possibly, he was adding small amounts in order to have bills to show the federal government. From the harmful effects on my body I know he was adding papain and he kept me in agony but he didn't kill me because I'm not a highly allergic person. The federal government in its infinite stupidity failed to test what was being added, even though I complained to them repeatedly and even took them to court to compel them to stop this contamination of the food supply. I failed to mention that it was the federal government that financed this contamination of the food supply and lent Auerswald the authority of the United States to persuade food manufacturers to add what he gave them, to their products.

It is impossible to know how many people Auerswald killed. It is known that highly allergic people, usually asthmatics, do die by anaphylactic reaction, when they ingest foods to which they are allergic. This includes foods such as eggs, milk, nuts and shrimp. In my exhibits in the Court of Appeals I included an article from the New England Journal of Medicine detailing a number of deaths in these people due to food allergy as well as the article (in 1973) from the American Psychiatric Association pronouncing niacin

worthless. I also included articles showing that papain is a potent allergen(allergy-producing agent). As a matter of fact papain used to be injected into ruptured spinal disks to dissolve them, thereby obviating the need for surgery. So many people died of anaphylactic reactions who didn't know they were allergic to papain that its use had to be discontinued. It is important to note that Auerswald killed people daily for 17 years because this makes him a psychopath, by definition. Being a psychopath means he isn't subject to the same restraints that the rest of us are and makes him very dangerous.

Why he chose such a novel way to kill me is obvious- he hoped to make it seem I had died of natural causes and thereby escape being charged with my murder. So he does fear punishment though he has no internal restraints.

All of this was proved for this action by the failure of the defendant to deny these statements in a Request for Admissions under Rule 36.

This, of course, wasn't all he did to me. He told my wife I was crazy (untrue) so that she divorced me. He told my parents I was crazy so they would let him do whatever he wanted to me. I have already shown that he told the federal government I was schizophrenic so they would let him add substances to the food supply of the tri-state area.

In June, 1983 after I had taken the FDA to the United States District Court for the Southern District of New York he decided it was taking too long for me to die by an anaphylactic reaction so he decided to use more direct methods of killing me. I had discontinued the gas service to my apartment in 1981(the Brooklyn Union Gas Co.) because it was too easy arrange an "accident" with gas. I came home in June, 1983 one day and my whole apartment smelled of gas. Auerswald had someone turn on the gas to my apartment and had entered my apartment (He had a key) and turned on all the gas taps on my stove. Luckily, I smelled it (I have an impaired sense of smell). I turned off the taps and opened the windows. I called my mother and asked her to notify the Brooklyn Union Gas Co. to turn off the gas. I assume she did since two men came to my apartment that night and said they were from Brooklyn Union Gas. It should be noted that Auerswald once again tried to kill me in a way which would have injured or killed other people(the explosion). When he tries to kill me again it will, undoubtedly, once again endanger other people since that is the only way he can avoid being prosecuted for murder. (i.e. to make it not look like murder). So the corrupt decision by the Court of Appeals has once again unleashed mass murderer Auerswald on the world. Auerswald, being a psychopath, will interpret the fact that he is unrestrained and unpunished even though he murdered thousands to mean he is above the law.

It should be noted that at no time did Auerswald ever try to conceal the fact he was following me from me. He constantly used it as reason for other people to do me harm, i.e. he would constantly tell them "unless they did such and

such to me I would know I was famous throughout the country and this would be a terrible catastrophe". For example, he had me fired from my last job(Queens-Long Island HIP group of New York) for failing to complete one prerequisite for the job by telling them that if they continued to employ me I would suspect I was famous and that would be terrible. If the HIP group(Health Insurance Plan) had its own choice they would have kept me since there were other doctors there who didn't have this prerequisite and I was an asset to the group since I was a competent doctor and was well-liked by most patients. The proof of the fact that he never tried to conceal the fact he was following me from me, lies in the fact that I know he had a listening device of some kind in my teeth and I never could have known that if he hadn't made it obvious to me. His motive for making it known to me was that he knew it would put me under stress, knowing that he could hear what I said to myself when I thought, and that he was taping it and would select those parts out of context which would help him prove me crazy to my family and the government. He felt this stress would make my sub-vocalizing more valuable to him to accomplish his purpose (since no one knew what he had done to provoke these tapes). Of course, I could be wrong and it was just his innate sadism which was the reason for it.

Auerswald had a problem; how do you make everyone believe someone (me) is crazy when they never do any actions which are crazy. He solved it with his phoney tapes. The main reason, I will never practice medicine again is because Auerswald has a collection of old tapes made when I was brain-damaged (encephalopathy) from a chronic allergic reaction to the papain, which he would take out and pretend they were recent so as to trick the federal government into helping him to destroy my life again. The federal government has demonstrated, again and again, that it operates with incredible stupidity in relation to Auerswald and there is no doubt in my mind that without an injunction against him,

Auerswald will once again have the federal government eating out of his hand and doing whatever he wants them to do no matter how illogical his request is since this is what has happened in the past. Thus, I am left with a permanent sense of fear without this injunction, especially since Auerswald has shown how easily he can manipulate the courts into failing to protect me.

The reason I have spent so much time on this is to show how incredibly intelligent and scheming Auerswald is and how dangerous, this psychopath Auerswald is, to me and others (since all his attempts to kill me have involved killing others or endangering them).

If all of this sounds bizarre remember it is Auerswald's bizarre mind that created all of this.

Additional things he did to me include multiple trespasses in my apartment where he sometimes stole things and at other times left implied threats by leaving on top of my newspapers (awaiting disposal by me) an open newspaper open to a headline which could be interpreted as a threat by me since he was already in the process of poisoning me. He invaded the trunk of my car and removed important papers at times. He hired someone to occupy the apartment under mine who would tap on their ceiling all night long in the area under my bed so as to keep me from sleeping as much as possible. He didn't want them to make too much noise since otherwise the neighbors would know what was going on. However since they were tapping right under my ear it wasn't too hard to seriously interfere with my sleep. He did this because he knew that sleep deprivation causes psychological effects and he felt it would help him to portray me as deranged (just one more lie). He kept this up from 1969 until about five or six years ago; I don't know what caused him to stop.

All this time he kept up a pattern of constant harassment throughout the day designed, I believe, to make me paranoid since this was grist for his phoney tapes. Of

course, all this time he maintained eavesdropping on all my telephone calls. I learned of this, by accident, when I hung up the phone one day in1968 and then immediately tried to call someone else. The operator came on the line and scolded me for trying to make a new call so soon after hanging up because it took some time to disconnect me from a "conference" line. Since no one had requested a conference call it was obvious that Auerswald, with the assistance of the telephone company was on a circuit with me and to whomever I was talking except that I couldn't hear him but the party to whom I was talking could hear him and would say to me whatever he told them to say. He used this frequently to deprive me of jobs which I would otherwise have obtained and to prevent people, who might have otherwise have done so, from helping me against him.

There was a repeated pattern where Auerswald kept me from obtaining jobs for which I was well qualified. On one occasion he had me fired after working for Consolidated Edison for one week as punishment for doing something he didn't like. They didn't even bother to give me a reason for discharging me.

Thus, in a sense, I became reduced to the level of his property through his numerous television appearances. He created an image of almost sainthood for himself through massive hypocrisy and lying, although, in truth, he is much closer to the devil incarnate. So people would do things like add the powder he gave them to my food in restaurants (i.e. the cook). This was ,of course, papain but it could have just as easily have been cyanide or some other direct acting poison. People would do anything he asked them to do to me since they were convinced that the "great and noble Auerswald" would only ask them to do "good" things. A favorite trick of his was to have me sit at a table in a restaurant and the waiter or waitress would not take my order for an hour. This was just pure harassment but multiply it by similar incidents occurring, perhaps, ten times daily and the

quality of life becomes seriously eroded. Thus, it is Auerswald's appearances on television which have permitted him to enlist the aid of many strangers in making my life miserable, thinking they are doing good.

The District Court Decision

Petitioner commenced this action by filing a complaint on June 4, 1992 in the United States District Court for the Eastern District of New York. Jurisdiction was based on the existence of a federal question arising from multiple violations of plaintiff's rights under the United States Constitution Article IV, Section2; Amendments IV, V, and XIV Section 1. It also arose under 28 U.S.C. para 1346(b) and the Federal Tort Claims Act, 28 U.S.C. Para 2671 et seq. Additional jurisdiction was under 42 U.S.C. Para 1985. Petitioner moved for a preliminary injunction on January 20,1993. Defendant made a cross-motion for dismissal of the complaint.

The District Court Judge made an order on August 18, 1993 dismissing the complaint giving as his reason the astounding lie that there was no evidence that Auerswald existed in spite of the fact that the defendant had admitted Auerswald was a federal employee by failing to deny it when served a Request for Admissions by petitioner and the fact that everyone in the whole country knows who Auerswald is. The judge dismissed the failure to respond to the Request for Admissions (served on Nov. 12, 1992) by saying he had given the defense 30 days to answer it on March 5, 1993. He didn't give any reason why he ignored the law requiring a response in 30 days because he couldn't, since Mr. Wildes who was defense counsel at the time the request was served and who should have answered it was no longer counsel and was not present at the hearing and therefore could not supply any lies for failing to answer the Request for Admissions.

Thus Judge Nickerson's sole reason for ignoring the failure to respond was that he felt like it, showing once again his bias in favor of defendant and against petitioner as did his pretense not to know who Auerswald was and use that lie to dismiss the complaint.

The District Court Judge conceded that the petitioner was entitled to an injunction under the Bivens doctrine (Bivens V. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999 (1971)) but then said he wouldn't grant the injunction because there was no evidence that Auerswald existed and therefore the case had no merit. This was truly an extraordinary statement and a total lie.

The Court of Appeals Decision

The Court of Appeals issued a judgment on April 13,1994 affirming the judgment of the District Court echoing the District Court Judge's lie that no evidence had been presented that Auerswald exists even though the failure of the defendant to respond to a Request for Admissions conceded that Auerswald was a federal employee and it is a matter of public knowledge that Auerswald exists and has interfered in petitioner's life and this is widely known throughout the United States and therefore should not have to be proved by petitioner. On June 14,1994 the petition for rehearing was denied by the Court of Appeals.

REASONS FOR GRANTING THE WRIT

This Court should review and reverse the decision below because it rests on a deliberate lie by the Court of Appeals and the District Court that Auerswald doesn't exist

and then says that petitioner is not entitled to an injunction because he failed to present evidence that Auerswald exists. This totally ignores the fact that the defendant admitted that Auerswald is a federal employee by failing to deny this when a Request for Admissions under Rule 36 was served on the defendant on November 12,1992. Also many of the allegations of the complaint were admitted in the same manner including the fact that the federal government had financed the contamination of the food supply. The District Court Judge attempted to overcome this and help the defendant by ordering the petitioner to give defendant a copy of the request at a hearing in March, 1993.The defendant's counsel, Ms Rubin, had not yet become counsel till after the thirty days allowed to answer the Request for Admissions had expired. The Counsel for defendant was Mr. Michael Wildes at that time. Since he was not at the March,1993 hearing he could not deny he had received the Request for Admissions. Besides petitioner had served the Request for Admissions by hand on the United States Attorney's office and it was clearly stamped by the United States Attorney's office "Received November 12, 1992.
According to Rule 36 (FRCP) the matter is admitted if there is no reply within thirty days. Defendant's counsel, Ms. Rubin, sent petitioner what she felt was a reply. Petitioner returned the document to her by mail, unread since petitioner felt she was not entitled to reply three months after the response was due according to the FRCP.

A Request for Admissions was not necessary to establish the existence of Auerswald since he is widely known throughout the United States, as is the fact that he interferes in petitioner's life through multiple television appearances by Auerswald where he discussed petitioner. Petitioner requested the District Court Judge to take judicial notice of the existence of Auerswald; the District Court Judge never responded in any way. According to Rule 201 (Federal Rules of Evidence) a judicially noticed fact is one

not subject to reasonable dispute in that it is "generally known within the territorial jurisdiction of the trial court". The District Court Judge's failure to take judicial notice was just one more example of his bias against petitioner. How the District Court and the Court of Appeals could believe that a person who was poisoned daily by Auerswald for seventeen years could be tricked into believing Auerswald doesn't exist is beyond my comprehension. More likely, they didn't care what I thought-only that Auerswald be able to continue what he was doing.

The Court of Appeals went along with the District Court in dismissing petitioner's claims under the Federal Tort Claims Act on the grounds that petitioner failed to file a claim with the agency Auerswald worked for. Of course, it was impossible for petitioner to file a claim with any agency since there was a deliberate policy of fraud and deceit by the federal government designed to conceal the existence of Auerswald making it impossible for pettitioner to find out what agency Auerswald worked for. Thus they say the federal government should be entitled to profit by its deceit and fraud.

The Court of Appeals says I am not entitled to an injunction under Section 702 of the APA because I didn't specify the agency action which affected me or that I have suffered a legal wrong, I am not a lawyer but my copy of Black's Law Dictionary defines a wrong as"a violation of the legal rights of another; an invasion of right to the damage of the parties who suffer it, especially a tort." The action which affected me was obviously the financing of the contamination of the food supply with a substance to which I am allergic- papain. I would think that Auerswald's attempt to murder me constitutes a legal wrong as well as his multiple trespasses in my apartment and the theft of important papers as well as other things. I would think his constant defamation of me is also a legal wrong.

This Court should review and reverse the decision below because it is based on a deliberate lie by the Court of Appeals which deprives petitioner of any justice and thus so far departs from " the accepted and usual course of judicial proceedings" as to call for the immediate exercise of this Court's power of supervision. Sup. Ct. R.10.1(a). The Court of Appeals does not present any reason why petitioner is not entitled to an injunction and damages against Auerswald under the Bivens Doctrine except to say there is no evidence that Auerswald exists which the Court of Appeals is well aware is a lie, since everyone in the United States knows who Auerswald is including the justices of the Court of Appeals.

COMMENTARY

It defies common sense that Auerswald could bribe the entire Court of Appeals for its corrupt decision so it has to be just another Auerswald super con job.

I have suffered the tortures of the damned at the hands of Auerswald. He turned my life into a total nightmare for 25 years. He caused me to be physically disabled cardiacwise(cardiomyopathy) so I could hardly do any physical activity and I suffered constant breathlessness and palpitations. He damaged my brain (encephalopathy) with my chronic allergic reaction to the papain. He made my wife and parents think I was crazy so that my wife divorced me and my parents permitted him to do whatever he wanted to me. My wife, undoubtedly, told my children that I was crazy and gave them that reason for divorcing me. There was an unceasing campaign of harassment and intimidation by Auerswald further increasing my misery. All of this was financed and abetted by the federal government in an amazing display of stupidity and negligence. The end result of this was the destruction of my life and the murder of thousands of others by anaphylactic reaction. Now the

federal government (I believe they are now aware that Auerswald is a lying, murdering psychopath) is going to compensate me for the harm they did me by refusing to restrain the monster with an injunction and denying me financial compensation for my misery and suffering. Auerswald has, undoubtedly, stolen millions from the federal government since there was obviously no supervision of him at all.

Auerswald has repeatedly prodded me during the last two years to return to the practice of medicine. He's anxious for this to occur because then he can use his collection of old tapes, made while I was brain-damaged and pretend they are recent. He believes that once he can use them he can manipulate the federal government into once again doing what he wants. From his past record of being able to manipulate the federal government into doing the most idiotic things I would say he's probably right. This illustrates the danger of leaving me without an injunction- without it Auerswald has repeatedly shown he can con the federal government into doing anything he wants. This man is a dangerous, homicidal psychopath and it should not be left to the common sense of the federal government to refrain from helping him since they have shown, repeatedly, they have no common sense.

The question arises: Why does the Court of Appeals feel they have to lie to let Auerswald continue business as usual? I have to guess here, of course. My guess is that Auerswald has conned them into thinking that his appearances on television are helping the Jews of America in some way. This is obviously not true. Anti-semitic bigots are obviously not converted to non anti-semites by Auerswald since their bigotry is not based on facts in the first place so it is not susceptible to removal by any "facts" presented by Auerswald. As for the non anti-semites, who are the majority of the population, they are too intelligent to believe that one Jew does, whether good or bad, represents what all Jews do.

I must confess the actions of the Court of Appeals are very frightening to me. I would have thought the Court of Appeals would be nauseated just by the sight of the lying, murdering psychopath Auerswald who is obviously a monster unequaled in American history. Not only has Auerswald not been punished for his crimes but no restrictions have been placed on him by the second highest federal judiciary in the land. Can a psychopath like Auerswald avoid believing he is above the law in view of the actions of the federal government and the federal judiciary in taking no action against him though he murdered thousands of people? Can it do otherwise than to persuade him to continue his murdering ways since everyone seems to accept them. Since Auerswald poisoned me every day for seventeen years he is obviously obsessed with murdering me. Can anyone believe he won't be encouraged in his obsession by the failure of any authority to punish him. I find it horrifying that the Court of Appeals pays no attention to words such as truth, justice, and human decency. Auerswald can only find it gratifying.

I am absolutely certain that when Auerswald finds any circumstances which will not automatically make him look guilty, he will have me killed. Such circumstances will occur if I am ever hospitalized as becomes more likely as I get older. People are known to die from errors by the staff in hospitals. This will give Auerswald the alibi he needs and he will hire someone to kill me in the hospital. Therefore the only hope for me is to emigrate to Canada if this Court fails to grant the writ of certiorari. What kind of country is this where after all this monster Auerswald has done to me. he is to be permitted to force me to emigrate to avoid being murdered. It will force me to leave my children and future grandchildren but what can I do if the government and the courts will not protect me. I would be dead anyway, so there would be nothing to gain by staying here.

Of course, he doesn't have to wait for me to be hospitalized to murder me. When he tried to blow me up with

the oven gas in my apartment it didn't bother him that it had been discontinued two years previously and I never restarted it. He had such contempt for the law enforcement authorities he thought he could get away with it anyway, even though there was no explanation for there being any gas in the stove.

Nowhere in the order by the Court of Appeals is there mention of a case where federal judges are permitted to lie if they feel they have good cause. I doubt that such a precedent exists. However if this Court fails to grant a writ of certiorari in this case such a precedent will have been created by this case.

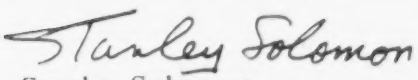
I would have thought that only in totalitarian countries such as Nazi Germany or Communist Russia would the Courts have fashioned their decisions to conform to the expectations of the federal government. However that is what has happened in the present case though we are supposed to be a democracy.

CONCLUSION

Thus the Court of Appeals has used the lie that there is no evidence of the existence of Auerswald, even though everyone in the United States knows who he is and of his involvement in my life, has disregarded a Request for Admissions Under Rule 36 which admitted he is a federal employee and admitted many of his crimes and has then used this lie to affirm the dismissal of the case and denial of an injunction even though the District Court Judge conceded that petitioner would, otherwise, be entitled to an injunction and damages under the Bivens Doctrine.

This constitutes such a gross travesty of justice as to warrant the exercise of this Court's power of supervision under Sup. Ct. R. 10.1(a) since this has so far departed from the accepted and usual course of judicial proceedings as to challenge the integrity of the entire legal system.

For the reasons set forth above, it is respectfully submitted that this petition for a writ of certiorari should be granted and the judgment of the court below should be reversed.



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APPENDIX A

Judgment of Court of Appeals

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 13th day of April, one thousand nine hundred and ninety-four.

PRESENT:

HON. WILFRED FEINBERG,

HON. ROGER J. MINER,
HON. DENNIS G. JACOBS,
Circuit Judges.

STANLEY SOLOMON,
Plaintiff-Appellant

v.

UNITED STATES OF AMERICA,
Defendant-Appellee

EDGAR AUERSWALD,
Defendant

ORDERS
93-6177
93-6249

UPON CONSIDERATION of this appeal from a judgment of the United States District Court for the Eastern District of New York, it is hereby

ORDERED, ADJUDGED, AND DECREED that the judgment of said District Court be and it hereby is AFFIRMED.

Plaintiff- Appellant Stanley Solomon, pro se, appeals from a judgment, dated August 18, 1993, of the United States District Court for the Eastern District of New York (Nickerson, J.), dismissing his complaint in toto for lack of subject matter jurisdiction.

In 1992, Solomon commenced two separate actions in the district court, one against the United States and the other against defendant Edgar Auerswald. In his complaint against Auerswald, Solomon alleges that Auerswald is an "evil genius" who is employed by an unspecified federal agency. Solomon alleges that, for approximately eighteen

years, Auerswald "arranged to have papain (a proteolytic enzyme) added to all [his] food and drink" in order to kill him and have it appear that Solomon had died of natural causes.

Solomon also contends that Auerswald "caused the implantation of an eavesdropping device in plaintiff's teeth during dental treatment." The effect of this implantation was " to allow Auerswald to hear and record what I said to myself when I thought, since I apparently talk to myself under my breath when I think." Solomon further contends that Auerswald: (1) eavesdropped on his telephone conversations, with the help of New York Telephone; (2) caused him to be fired from several jobs; (3) told people that Solomon was mentally deranged; (4) caused Solomon's wife to divorce him; (5) had an accomplice make noise above(sic) Solomon's apartment to prevent him from sleeping; and (6) removed legal papers from Solomon's car.

Solomon's complaint against the United States appears to stem from the wrongful acts attributed to Auerswald and includes claims brought pursuant to (1) the Federal Tort Claims Act (FTCA); (2) Bivens v. Six Unknown

[Named] Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971); and (3) 42 U.S.C. para 1983 &1985. On January 20, 1993, Solomon moved for a preliminary injunction to enjoin the United States and its employees from " following plaintiff, causing anything to be added to plaintiff's food supply, from eavesdropping in any fashion on plaintiff, from intervening in any way in plaintiff's life and from further defaming plaintiff." On January 29, the United States moved to dismiss the complaint on the grounds that: (1) Solomon had failed to meet the prerequisites of the FTCA; (2) the United States was an improper defendant under section 1983 and 1985; (3) the United States was an improper defendant in a Bivens action.

On June 4, 1993, the district court : (1) consolidated the two cases brought by Solomon; (2) allowed Solomon to amend the basis of jurisdiction to include 28 U.S.C. para 1331, 1332 and 5U.S.C. para 702, 703, the Administrative Procedure Act ("APA") ; (3)deleted 42 U.S.C. para 1983 as a basis for jurisdiction; (4) dismissed the complaint against the United States for lack of subject matter jurisdiction under the provisions of the FTCA; (5) dismissed

the section 1985 complaint against Auerswald for lack of jurisdiction; and (6) deferred decision on whether it had subject matter jurisdiction over Auerswald in the Bivens action so that Solomon could submit evidence that Auerswald did, in fact, exist.

On June 28, 1993, Solomon moved for reargument of his motion for a preliminary injunction. On August 18, the district court denied the motion and dismissed all remaining claims against Auerswald, thereby dismissing Solomon's entire complaint.

On appeal, Solomon argues that an injunction should have been issued by the district court, pursuant to section 702 of the APA. However, two requirements must be satisfied before a litigant can bring an action under the provisions of the APA. First, the complainant must specify the agency action that affected him. Second, that party must also show that he has suffered a "legal wrong" because of the agency action or is "adversely affected or aggrieved" by the agency action "within the meaning of the relevant statute." Lujan v. National Wildlife Fed., 497 U.S. 871, 883 (1989).

In this case , Solomon fails to identify either the federal agency that purportedly employs Auerswald or any legal wrong that he has suffered as a result of agency action. Accordingly, Solomon has failed to meet the requirements of the APA and his claim was properly dismissed.

Solomon also challenges the dismissal of his claims brought pursuant to the FTCA. Under the provisions of the FTCA, the United States has consented to suits for money damages where the actions of federal employees, acting within the scope of their employment, would constitute a tort if committed by a private actor. See Hurwitz v. United States, 884 F.2d 684, 686 (2d Cir.1989), cert.denied, 493 U.S. 1056 (1990). A prerequisite to filing an action pursuant to the FTCA is that the claim first be presented to a federal agency for processing. 28 U.S.C. para 2675(a). In his briefing to this Court, Solomon concedes that he did not file a claim with any federal agency. Therefore, the district court properly dismissed this claim.

With regard to Solomon's claims against Auerswald, he failed to present any evidence to the district court that Auerswald actually exists and, if he does, what

federal agency, if any, employs him. On this appeal , Solomon fails to proffer any documentation to support his allegations. The district court properly dismissed all claims.

HON. WILFRED FEINBERG

HON. ROGER J. MINER

HON. DENNIS G. JACOBS

Circuit Judges

APPENDIX B

Denial of Petition for Rehearing

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse, in the City of New York, on the fourteenth of June one thousand nine hundred and ninety-four.

STANLEY SOLOMON,
Plaintiff-Appellant,

v.

Docket No. 93-6177
93-6249

UNITED STATES OF AMERICA,
Defendant-Appellee,

EDGAR AUERSWALD,
Defendant

A petition for rehearing containing a suggestion that the action be reheard in banc having been filed herein by pro se appellant, Stanley Solomon

Upon consideration by the panel that decided the appeal, it is Ordered that said petition for rehearing is DENIED.

It is further noted that the suggestion for rehearing in banc has been transmitted to the judges of the court in regular active service and to any other judge that heard the appeal and that no such judge has requested that a vote be taken thereon.

FOR

THE COURT,

GEORGE LANGE III, CLERK

By:

Carolyn Clark Campbell

Chief

Deputy Clerk

APPENDIX D

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Stanley Solomon,

Plaintiff

92 CV 2653

V.

MEMORANDUM AND Order

United States of America and
Edgar Auerswald,

Defendants

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Stanley Solomon,
Brooklyn(sic), New York
Plaintiff pro se.

Zachary W. Carter, United States Attorney
(Jorin G. Rubin, of counsel)
Brooklyn, New York
for defendant United States.

Nickerson, District Judge:

Plaintiff Stanley Solomon brought this action against defendants United States and Edgar Auerswald, alleging that that Auerswald , while an employee of the United States government, attempted to murder him, interfered with

his employment, invaded his privacy, interfered with his court cases, and harassed him in countless other ways during the past twenty-five years.

By Memorandum and Order dated June 2, 1993 the court denied Solomon's request for a preliminary injunction and dismissed claims against the United States under the Federal Tort Claims Act, the Administrative Procedures Act, 42 U.S.C. para 1985 and Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388, 91 S. Ct. 1999 (1971). The Court also dismissed a claim against Auerswald under 42 U.S.C. para 1985 and stated it would dismiss the Bivens claim against Auerswald under the doctrine of "constitutional insubstantiality" unless Solomon submitted evidence within 30 days to support his contention that Auerswald is or was alive, is or was a federal official, and has had harmful contact with Solomon.

Solomon moves to reargue his motion for a preliminary injunction. He also seeks orders (1) pursuant to Rule 201 of the Federal Rules of Evidence taking judicial notice of the fact that Auerswald has repeatedly appeared on television and discussed Solomon, and (2) pursuant to Rule 4 (c) (2) (C) (i) of the Federal Rules of Civil Procedure directing the manner in which the summons and complaint may be served on Auerswald given that Solomon does not know Auerswald's address.

I.

The court has carefully considered and denies Solomon's motion to reargue.

Insofar as he contends that the government did not timely answer his "Request for Admission Under Rule 36," this court considered that contention at oral argument on March 5, 1993 and ordered the government to answer the request within 30 days. The

government complied with that order. His contention that his requests are deemed admitted, therefore, lacks merit.

Insofar as he contends that Auerswald conspired on numerous occasions in violation of 42 U.S.C. para 1985, this claim suffers the same infirmity as his Bivens claim. See Solomon v. United States, Civ. No. 92-2653, slip op. at 10-11 (E.D.N.Y. June 2, 1993) (concluding that "[b]ased on the mystical manner in which Auerswald is described, together with the fantastic misdeeds he is alleged to have performed, this court sees no reason to believe that Auerswald exists or, if so, that he is a federal official who caused harm to Solomon"). This court sees no reason to believe that , if Auerswald exists, he participated in the alleged conspiracies.

II.

In its previous order the court directed Solomon to submit evidence by July 2, 1993 in support of his claim that Auerswald is or was alive, is or was a federal official, and has had harmful contact with Solomon. Evidently, Solomon is unable to adduce any evidence to support any part of his allegations.

Accordingly, the court concludes that it lacks jurisdiction under Bivens or 42 U.S.C. para 1985 because the complaint asserts wholly insubstantial claims. See Hagans v. Lavine, 415 U.S. 538, 534-39, 94 S.Ct. 1372, 1378-80 (1974).

III.

The case is dismissed.

So ordered.

Dated: Brooklyn, New York
August 18, 1993

Eugene H. Nickerson, U.S.D.J.

APPENDIX F

Article IV, Section2 (1) The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

Amendment IV " The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall no be violated, and . . . ."

Amendment V ". . . . . nor be deprived of life, liberty , or property, without due process of law; . . . . . "

Amendment XIV, Section1 ". . . . . No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty , or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

42 U.S.C.para 1985 (3)"If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another,for the purpose of depriving , either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws;or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws;. . . . . .whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived

may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators."